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General Assembly

Sixty-third session

Official Records

76th plenary meeting
Monday, 2 March 2009, 10 a.m.
New York

President: Mr. D'Escoto Brockmann ..... (Nicaragua)

In the absence of the President, Mr. Wolfe (Jamaica), Vice-President, took the Chair.

The meeting was called to order at 10.25 a.m.

Agenda item 122 (*continued*)

Scale of assessments for the apportionment of the expenses of the United Nations

The Acting President: I should like to inform members that, since the issuance of document A/63/725, Paraguay has made the payment necessary to reduce its arrears below the amount specified in Article 19 of the Charter. May I take it that the General Assembly duly takes note of this information?

It was so decided.

The Acting President: This information will be reflected in document A/63/725/Add.1, to be issued at a later date.

Agenda item 105 (*continued*)

Appointments to fill vacancies in subsidiary organs and other appointments

(k) Appointment of the judges of the United Nations Dispute Tribunal

Memorandum by the Secretary-General (A/63/700)

Mr. Ripert (France) (*spoke in French*): I have taken the floor in my capacity as Chairman of the Group of Francophone Ambassadors. Francophone countries represent, I would recall, more than a third of the membership of the General Assembly.

The 67 States members of the International Organization of la Francophonie have requested that I stress their commitment to ensuring that the new structures of the system of justice can guarantee to all United Nations international civil servants a justice system that is equal for everyone.

In its resolution 62/228, the General Assembly decided that the Internal Justice Council shall provide its views and recommendations to the Assembly on two or three candidates for each vacancy in the United Nations Dispute Tribunal and the United Nations Appeals Tribunal. Only two candidates have been selected for the post of judge in New York. The Francophone Group wonders why there are so few candidates who speak or even understand French, a working language of the United Nations, among the candidates for full-time judges of the Dispute Tribunal in New York. That could undermine the ability of many Secretariat staff members to defend their rights in one of the Organization's working languages.

We hope that, as we wait for the Tribunals' operations to be reviewed, the concerns that I have just expressed will be taken into account in the operations of the Dispute Tribunal in New York. We are all committed to ensuring that all international civil servants can use the official language of their choice before that body.

In making this statement I am not, of course, calling into question either the independence of the

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Internal Justice Council or the personal ability of the selected candidates, to whom we wish every success.

Mr. Seye (Senegal) (*spoke in French*): My delegation welcomes the establishment of the new United Nations system of administration of justice and reaffirms its commitment to the independence of that new entity. We take this opportunity to congratulate all candidates selected by the Internal Justice Council.

However, my delegation regrets the dearth of candidates who speak or understand French among those proposed for Headquarters in New York to be elected this morning. That situation could be a serious hindrance to international civil servants who wish to present or defend their cases before that new body in the French language.

My delegation hopes that the Secretariat will take the appropriate measures to ensure that all staff members of the Organization who wish to do so can present and defend cases before the Dispute Tribunal or the Appeals Tribunal in their choice of the six official languages.

The Acting President: As indicated in document A/63/700, the General Assembly is required, during its sixty-third session, to appoint three full-time and two half-time judges to the Dispute Tribunal. The term of office for those judges will be for seven years, beginning on 1 July 2009, subject to the transitional measure set out in article 4(4) of the statute of the United Nations Dispute Tribunal.

As also indicated in document A/63/700, in accordance with article 4(2) of the statute of the Dispute Tribunal, the

> "judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality".

The names of the candidates recommended for full-time appointment to each location of the Dispute Tribunal — Geneva, Nairobi and New York — and the candidates recommended for half-time appointment to the Tribunal are also contained in document A/63/700.

In order to be eligible for appointment, article 4(3) of the statute of the Dispute Tribunal requires that a person shall be of high moral character and possess at least 10 years of judicial experience in the field of administrative law or the equivalent within one or more national jurisdictions.

Article 4(4) of the statute of the Dispute Tribunal further provides that

> "A judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, two of the judges (one full-time judge and one half-time judge) initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Dispute Tribunal for a further non-renewable term of seven years. A current or former judge of the Appeals Tribunal shall not be eligible to serve in the Dispute Tribunal."

In document A/63/700, it is proposed that the General Assembly proceed to appoint the full-time and half-time judges of the Dispute Tribunal by way of an election, bearing in mind paragraph 58 of General Assembly resolution 63/253, in which the Assembly invited Member States, when electing judges to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, to take due consideration of geographical distribution and gender balance.

If there is no objection, may I take it that the General Assembly agrees to that proposal?

It was so decided.

The Acting President: The candidates who obtain the largest number of votes, and not less than a majority of the votes of those present and voting, shall be considered elected, and thereby appointed by the Assembly to the Dispute Tribunal. Also, balloting shall continue, in accordance with the rules of procedure of the General Assembly, until as many candidates as are required for the full-time and half-time seats on the Dispute Tribunal to be filled have obtained, in one or more ballots, a majority of the votes of the members present and voting.

Once a candidate from a Member State has been elected, other candidates from the same Member State will be barred from standing in any subsequent rounds of balloting for any of the seats of the Dispute Tribunal. In the event that more than one candidate from the same Member State obtains the required majority in the same round of balloting, only the candidate with the highest number of votes shall be declared elected. If more than one candidate from the

same Member State obtains, in any round of balloting, the required majority and the same number of votes, the President of the General Assembly shall decide between the candidates by the drawing of lots.

May I take it that the Assembly agrees to those procedures?

It was so decided.

The Acting President: Before proceeding further, I would like to inform members that the elections for the full-time seats on the Dispute Tribunal will take place first. Once the full-time judges have been elected, the elections for half-time seats on the Tribunal will proceed. Also, immediately after the completion of the elections, the drawing of lots will be held to select, from among the judges already elected, the two judges, one full-time and one half-time, who shall serve three years.

The General Assembly will now proceed to the election of the three full-time judges of the United Nations Dispute Tribunal. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each representative may vote for not more than one candidate for full-time appointment to each location of the Dispute Tribunal.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot and there shall be no nominations. Again, I should like to repeat that the full-time seats on the Dispute Tribunal are distributed among each location of the Tribunal, that is, Geneva, Nairobi and New York. The ballot papers reflect that pattern.

Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting, except on a point of order on the actual conduct of the voting.

I should like to seek the usual cooperation of representatives during the time when the General Assembly is conducting the elections. Members should please be reminded that, during the voting procedure, all campaigning should cease in the General Assembly Hall. That means that, once the meeting has begun, no more campaign material can be distributed in the Hall. All representatives are also requested to remain at their seats so that the voting process can proceed in an orderly manner. I thank members for their cooperation.

We shall now begin the voting process. Members are requested to remain seated until all the ballots have been collected. Ballot papers will now be distributed.

May I request representatives to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. May I also remind representatives that they may vote for not more than one candidate for full-time appointment for each location of the Tribunal. A vote will be declared invalid if more than one name is marked for appointment to a given location of the Dispute Tribunal.

At the invitation of the Acting President, Mrs. Velichko (Belarus), Mrs. Pérez Alvarez (Cuba), Mr. Belkheir (Libyan Arab Jamahiriya), Ms. van der Horst (Netherlands), Mrs. Nguyen Thi Tu (Viet Nam) and Mr. Al Hadhrami (Yemen) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.50 a.m. and resumed at 11.45 a.m.

The Acting President: The result of the voting is as follows:

Geneva

Number of ballot papers:	175
Number of invalid ballots:	0
Number of valid ballots:	175
Abstentions:	4
Number of members voting:	171
Required majority:	86
Number of votes obtained:	
Mr. Thomas Laker (Germany):	88
Mr. Jean-François Cousin (France):	83

Nairobi

Number of ballot papers:	175
Number of invalid ballots:	0
Number of valid ballots:	175
Abstentions:	4
Number of members voting:	171
Required majority:	86
Number of votes obtained:	
Mr. Vinod Boolell (Mauritius):	94
Ms. Nkemdilim Amelia Izuako (Nigeria):	77

New York

Number of ballot papers:	175
Number of invalid ballots:	0
Number of valid ballots:	175
Abstentions:	2
Number of members voting:	173
Required majority:	87
Number of votes obtained:	
Ms. Memooda Ebrahim-Carstens (Botswana):	112
Mr. Michael Adams (Australia):	61

The following three candidates have therefore obtained the required majority and the largest number of votes and are duly appointed full-time judges of the United Nations Dispute Tribunal, to serve for a seven-year term commencing on 1 July 2009: Mr. Thomas Laker of Germany, Mr. Vinod Boolell of Mauritius and Ms. Memooda Ebrahim-Carstens of Botswana.

I take this opportunity to extend to them the congratulations of the General Assembly on their election.

The General Assembly will now proceed to the election of the two half-time judges of the United Nations Dispute Tribunal. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives are requested to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each representative may vote for not more than two candidates for half-time appointment to the Dispute Tribunal.

The election will be held in accordance with the relevant rules of procedure of the General Assembly. Therefore, in accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot and there shall be no nominations.

Before we begin the voting process, I should like to remind members that pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected. Ballot papers will now be distributed.

I request representatives to indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. I also remind representatives that they may vote for not more than two candidates for half-time appointment to the Tribunal. A ballot will be declared invalid if more than two names are marked for appointment to the Dispute Tribunal.

At the invitation of the Acting President, Mrs. Velichko (Belarus), Mrs. Pérez Álvarez (Cuba), Mr. Belkheir (Libyan Arab Jamahiriya), Ms. van der Horst (Netherlands), Mrs. Nguyen Thi Tu (Viet Nam) and Mr. Al Hadhrami (Yemen) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at noon and resumed at 12.40 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	178
Number of invalid ballots:	1
Number of valid ballots:	177
Abstentions:	11
Number of members voting:	166
Required majority:	84
Number of votes obtained:	
Ms. Coral Shaw (New Zealand)	109
Mr. Goolam Hoosen Kader Meeran (United Kingdom of Great Britain and Northern Ireland)	101
Mr. Rodney Madgwick (Australia)	98
Mr. Mark Sutton (United Kingdom of Great Britain and Northern Ireland)	26

The Acting President: The following two candidates have obtained the required majority and the largest number of votes: Ms. Coral Shaw of New Zealand and Mr. Goolam Hoosen Kader Meeran of the United Kingdom of Great Britain and Northern Ireland. They are therefore duly appointed half-time judges of the United Nations Dispute Tribunal to serve for seven-year terms commencing on 1 July 2009. I take this opportunity to extend to them the congratulations of the Assembly on their appointment.

The Assembly has therefore appointed the following judges to serve for seven-year terms on the United Nations Dispute Tribunal, commencing on 1 July 2009. As full-time judges, Mr. Thomas Laker of Germany is appointed to the Dispute Tribunal in Geneva, Mr. Vinod Boolell of Mauritius is appointed to the Dispute Tribunal in Nairobi and Ms. Memooda

Ebrahim-Carstens of Botswana is appointed to the Dispute Tribunal in New York. Ms. Coral Shaw of New Zealand and Mr. Goolam Hoosen Kader Meeran of the United Kingdom of Great Britain and Northern Ireland are appointed as half-time judges.

In accordance with article 4(4) of the statute of the Dispute Tribunal, I will now proceed to the drawing of lots to select, from among the judges already elected, the two judges, one full-time and one half-time, who shall serve for three years.

As members can see, the boxes are empty. The names of the three full-time judges will now be put into one box, while the names of the two half-time judges will be placed into the other.

The Acting President drew the following two names from the boxes: Mr. Goolam Hoosen Kader Meeran (United Kingdom of Great Britain and Northern Ireland) and Ms. Memooda Ebrahim-Carstens (Botswana).

The Acting President: Having been drawn by lots, Mr. Goolam Hoosen Kader Meeran of the United Kingdom of Great Britain and Northern Ireland and Ms. Memooda Ebrahim-Carstens of Botswana will serve as full-time and half-time judges, respectively, on the United Nations Dispute Tribunal for a term of three years beginning on 1 July 2009.

The Assembly has thus concluded this stage of its consideration of sub-item (k) of agenda item 105.

The meeting rose at 12.50 p.m.